

Bioterror and Pandemic Preparedness Protection Act

The Bioterror and Pandemic Preparedness Protection Act eliminates the most prominent barrier to encourage the development of countermeasures needed to protect the nation against biological, radiological, or nuclear agents, as well as to protect Americans from epidemics such as SARS and pandemics such as avian influenza.

PROBLEM = BOUNDLESS LIABILITY

The foremost barrier standing in the way of first responders and manufacturers is the almost boundless liability exposure associated with developing and administering biodefense and pandemic and epidemic products.

As a result, needed vaccines and drugs are not being developed and deployed -- exposing the economy, and the Nation as a whole, to far greater potential liability due to the lack of effective products in the event of bioterror attack or natural outbreak.

SOLUTION = THE FIRST RESPONDER PREPAREDNESS PROTECTION ACT

This Act would encourage the development of needed countermeasures by creating a Federal cause of action to address the liability concerns. The Federal Government would take responsibility for countermeasure and pandemic and epidemic products that are purchased by the Government or authorized by them for use in an emergency. The Federal Government would be permitted to raise an affirmative defense to the action unless the injury resulted from a bad actor, in which case the action for damages would proceed against the bad actor.

These protections are necessary to:

- † Ensure that first responders delivering biodefense and pandemic or epidemic products during an emergency receive due protection for stepping up and protecting our country.
- † Spur potential research and manufacturing, and health care delivery partners to commit substantial resources and take the risks necessary to bring innovative new products to market.

NO PROTECTION FOR BAD ACTORS

- † This Act would NOT provide immunity to bad actors, who act intentionally or with willful disregard to cause the injury.
- † The Federal Tort Claims Act (or Small Pox Model) gives stronger protections to bad actors.